

United States District Court
Western District of Texas
Austin Division

UNITED STATES OF AMERICA,

Plaintiff,

v.

GREG ABBOTT, in his capacity as Governor
of the State of Texas, and THE STATE OF
TEXAS,

Defendants.

No. 1:23-cv-00853-DII

EPI'S CANOE & KAYAK TEAM, LLC AND
JESSIE FUENTES,

Plaintiffs,

v.

STATE OF TEXAS, *et al.*,

Defendants.

No. 1:23-cv-00836-DII

**DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTIONS FOR PRELIMINARY
INJUNCTION**

EXHIBIT A

DECLARATION OF MAJOR CHRIS NORDLOH
IN OPPOSITION TO THE MOTION FOR PRELIMINARY INJUNCTION

1. My name is Chris Nordloh. I serve as a Major within the Tactical Marine Unit of Texas Highway Patrol, a Division of the Texas Department of Public Safety, and have responsibility over a large area in Texas, including the segment of the Rio Grande in Maverick County where the floating buoys at issue in this matter currently exist.

2. My responsibilities include performing marine and water rescues, maritime patrols, riverine, and coastal operations. Overall, I have worked for the Texas Department of Public Safety for 27 years. Currently I work to support Operation Lone Star.

3. I am personally familiar with the Maverick County segment of the Rio Grande, having grown up in the area and engaged in outdoor recreation and hunting here my whole life. Professionally, I have worked in this region since 2009. I consistently work in this segment of the Rio Grande throughout the year and possess comprehensive knowledge of its features, characteristics, and dangers of this segment of the river.

4. Part of my responsibilities in the Tactical Marine Unit involve traveling this segment of the Rio Grande by air boat. Hidden dangers exist in patchworks all over this stretch of the Rio Grande that can punch holes in the hull of a boat, even

the metal hull of an air boat which is much harder than a typical fiberglass hull. For that reason, only skilled law enforcement agents well-acquainted with and trained in traveling this stretch of the river should operate watercraft in it. It is very difficult and dangerous for even the airboats to operate in this segment of the river without professional training. Even marine and water rescues performed by my team may be hazardous depending on the conditions. My team exercises caution and care in these situations.

5. This stretch of the Rio Grande where the floating buoys are currently located is comprised of sand bars, shallow water, water with inconsistent depths, small islands, large rocks, man-made debris, natural debris such as logs and stumps, and sandy shoals. People entering the river at this location face treacherous conditions, including hidden eddies that can and do drown swimmers. Water levels are dependent on releases from the Lake Amistad Dam located approximately 70 miles upstream. The depth of this segment varies from day to day—even within the same day—and obstacles even recently exposed can be covered within hours and hide just below the water, posing great threats to boats.

6. Very few boats, outside law enforcement watercraft, operate on this stretch of the river where the floating buoys are currently located. Due to shallow waters, the largest boats capable of operating here are air boats with very shallow

draft and a maximum capacity of four to six persons due to the extremely limited weight capacity. The air boats do not have the capacity to carry cargo.

7. An air boat, or perhaps, in theory, a recreational kayak, canoe, or light jet boat, is the only type of watercraft capable of operating on the river in this segment due to the sand bars and shallow water, which is usually about a foot and half deep. I have never seen a commercial barge, fishing boat, cargo ship or carrier, tanker, or any other commercial vessel in this stretch of the Rio Grande in Maverick County.

8. In my experience, I have never seen a U.S. Coast Guard boat near Eagle Pass in the Rio Grande—I have seen U.S. Coast Guard vessels only several hours away—over 200 miles south near Mission, Texas where the river is substantially deeper.

9. The Rio Grande varies from approximately 100 to 400 feet in width through Maverick County, Texas. In the immediate vicinity of the floating buoys' current location, the Rio Grande is approximately 200 feet wide. The deeper side of the river in the vicinity of the buoys is on the Mexican half of the river. The buoys are placed within Texas on the shallower U.S. side.

10. The floating buoy system poses no obstacle to traveling up and down the river. The buoys are very well marked and colorful. The law enforcement watercraft using this segment of the Rio Grande (the only type of watercraft I have

seen operate in this segment) readily maneuver around the buoys with no problems. Based on my experience in the river, the floating buoys at their current location have no impact on the ability to navigate the waters of the Rio Grande in the Maverick County segment for lawful purposes, or on the navigable capacity of the river.

I hereby declare under penalty of perjury, pursuant to 28 U. S. C. § 1746, that the foregoing is true and correct to the best of my knowledge and information.

Signed this 8th day of August 2023.

A handwritten signature in black ink, appearing to read "JC Nordloh", written over a horizontal line.

Chris Nordloh

Texas Department of Public Safety